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CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF: DISAPPEARANCES AND SUMMARY EXECUTIONS

Report of the Working Group on Enforced or Involuntary Disappearances

Addendum

Report on the visit to Turkey by two members of the Working Group on Enforced or Involuntary Disappearances (20-26 September 1998)

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Introduction

1. The Working Group's activities in relation to Turkey are recorded in its report to the Commission in 1991 (E/CN.4/1991/20, paras. 371-373) and in its subsequent reports. Most of the cases of enforced disappearance were submitted by Amnesty International, the Kurdistan Committee, the World Organization Against Torture and, with respect to Iranian nationals, by the National Council of Resistance of Iran (NCRI).

2. Since the creation of the mandate, 166 cases of enforced or involuntary disappearance have been reported to the Working Group, of which 79 have been clarified. The highest number of cases occurred in 1994 (72 cases). The numbers dropped to 17 in 1995, to 12 in 1996 and to 9 in 1997. During 1998, 13 cases were reported. The victims included members of political opposition parties, journalists working for newspapers opposed to the Government, trade unionists or villagers suspected of supporting subversive organizations.

3. The Working Group also received allegations of disappearances imputed to the Worker's Party of Kurdistan (PKK) and other armed groups. However, pursuant to its mandate and the definition of enforced disappearance contained in the Preamble to the Declaration on the Protection of All Persons from Enforced Disappearance, the Working Group does not consider such cases.

4. On 21 July 1995, the Working Group requested authorization of the Government of Turkey to visit the country on an official mission. In response to that request, the Government invited the Working Group to visit Turkey in the fourth quarter of 1997. The visit took place from 20 to 26 September 1998 and was carried out by two members of the Working Group, its Chairman, Mr. Ivan Tosevski (the former Yugoslav Republic of Macedonia) and Mr. Diego García-Sayán (Peru).

5. The programme of the visit is included in annexes I and II to the present report.

6. The Working Group gratefully acknowledges the valuable cooperation it has received from the Government of Turkey, both in the preparation of and during the visit, particularly from the Ministry for Foreign Affairs, the Ministry of State in Charge of Human Rights, public prosecutors and prosecutors of State security courts and the Permanent Mission of Turkey to the United Nations Office at Geneva. No obstacles were encountered by the members of the mission in receiving representatives of non-governmental organizations, witnesses and relatives of missing persons.

I. CONTEXT OF DISAPPEARANCES

7. Most of the disappearances concerned persons of Kurdish ethnic origin and occurred in the provinces of Diyarbakir and Siirt, in south-east Anatolia, where the armed and security forces are combating the PKK and where a state of emergency is in force. Some of the reported disappearances took place in

Antalya, Izmir and Istanbul. Most of the cases followed the same pattern: the missing persons had allegedly been arrested at their homes on charges of belonging to the PKK and taken to the police station but their detention was later denied by the authorities, in most cases police officers or State prosecutors. In many cases, torture or ill-treatment at the hands of the security forces was reported or feared. Some of the disappearances occurred during raids conducted by gendarmes accompanied, at times, by village guards, a civil defence corps.

8. In 1984, the PKK began an armed struggle to set up an autonomous or independent homeland in the south-east of Turkey. In the years since then, around 37,000 persons have been killed. According to the Government, in August 1984 the PKK began attacking police stations and similar targets north of the border with Iraq and Syria and in the south-eastern provinces. In response, the authorities trained villagers to defend themselves in a militia system and also moved some populations out of areas where they would be at most risk. The Government considers that it has succeeded in restoring law and order in the south-eastern region. Some villages have been destroyed or suffered much repression in the ongoing conflict between the security forces and the PKK. Several journalists have been convicted under the Anti-Terror Law for their opinions and for reporting on sensitive matters, such as the so-called Kurdish question.

9. In addition, the Working Group was informed that the People's Democracy Party (HADEP), a legal political party with a predominantly ethnic Kurdish membership, has allegedly suffered serious harassment by the authorities. People have also been convicted for assisting the illegal Revolutionary People's Liberation Party-Front (DHKP-C). It was further reported that, recently, inciting hatred based on religious differences is being considered a serious crime.

10. Armed groups and the PKK have been accused of murdering non-combatants, village guards, representatives of the State and innocent people. The Istanbul branch of the Human Rights Association of Turkey reported that it had received a statement on 7 June 1998 from the Marxist-Leninist Communist Party (MLKP) saying that the party had executed as police informers the treasurer of the Bursa branch of the Turkish Human Rights Association, Mr. Tacettin Asçi, and Mr. Ahmet Aydin. They had been abducted in May 1998.

11. The Working Group was informed by non-governmental sources that human rights violations are experienced more intensively in the regions where ethnic Kurds live. The Kurdish population numbers around 15 million, mainly living in the south-east and east of the country, a region that has been governed under a state of emergency regime since 1987. Nearly 3 million ethnic Kurds are internally displaced and more than 3,000 villages and hamlets have reportedly been evacuated. Ethnic Kurds have also moved to other countries.

12. Government representatives consider that their combat against the PKK is a struggle against the worst terrorist-separatist movement in the world. According to Government sources, that movement receives considerable political, logistical and financial support from abroad.

II. LEGAL AND INSTITUTIONAL DEVELOPMENTS RELEVANT TO DISAPPEARANCES

13. Article 1 of the Constitution establishes the form of the Turkish State as a Republic. Article 2 establishes that it is a democratic, secular and social State governed by the rule of law, bearing in mind the concepts of public peace, national solidarity and justice, respecting human rights, and loyal to the nationalism of Atatürk. These provisions are irrevocable, shall not be amended, nor shall their amendment be proposed, in accordance with article 4. The Republic was founded by Mustafa Kemal Atatürk in 1923, on the ruins of the 600-year-old Ottoman Empire. The army ousted three civilian Governments: in 1960 (that of Prime Minister Adnan Menderes), 1971 and 1980. After the 1980 coup, the Constitution was rewritten and accepted by referendum in 1982. In June 1997, Mr. Necmettin Erbakan, leader of the Refah Party, resigned as Prime Minister after an intense campaign led by the army against what was considered an Islamist Government, and the leader of the Motherland Party, Mr. Mesut Yilmaz, was appointed Prime Minister.

A. States of emergency

14. In accordance with article 120 of the Constitution, the Council of Ministers, meeting under the chairmanship of the President of the Republic and after consultation with the National Security Council, may declare a state of emergency in one or more regions or throughout the country in the event of serious indications of widespread acts of violence aimed at the destruction of the free democratic order or of fundamental rights and freedoms, or serious deterioration of public order. The state of emergency is declared for a period not exceeding six months. This decision shall be submitted immediately to the Turkish Grand National Assembly, which may extend the period for a maximum of four months each time.

15. The state of emergency declared in 1987 continues in six south-eastern provinces. In October 1997, the Turkish Grand National Assembly voted to lift the state of emergency in the provinces of Batman, Bingol and Bitlis. Article 15 of the Constitution provides that, in times of state of emergency the exercise of fundamental rights and freedoms can be partially or entirely suspended. Measures may be taken which derogate the guarantees embodied in the Constitution, provided that obligations under international law are not violated. However, "the individual's right to life, and the integrity of his material and spiritual entity, shall be inviolable and no one may be compelled to reveal his religion, conscience, thought or opinion, nor be accused on account of them". Offences and penalties may not be made retroactive, nor may anyone be held guilty until so proved by a court judgement.

16. Government authorities advised the Working Group that the extension or not of the state of emergency in the six provinces is evaluated each month and that it seems possible that only three provinces will be under such a state of emergency at the beginning of 1999.

B. Law enforcement forces

17. The law enforcement forces are constituted by the Turkish National Police, the Gendarmerie, the Special Security Forces and the Coast Guard. The

National Police has responsibility for security in urban areas. In each province there is a Gendarmery command area, and in each rural town a company. They work in cooperation to the Governors and to the Ministry of Interior and cooperate with the public prosecutors. In zones under a state of emergency, the police force acts under the direct authority of the Governor concerned, who, however, may also call for the support of units of the army. Intelligence units of the police force are present in various parts of the country and act as information units. According to information provided by the Government, they act under the strict control of the command chain.

18. The Working Group was informed that the security forces are currently fighting the PKK forces, Islamist radicals and urban terrorist groups. Non-governmental organizations reported that police and gendarmerie personnel have occasionally been arrested in cases of human rights violations, but the number of prosecutions remains low. It was said that law enforcement personnel arrested in cases of extrajudicial executions and other serious human rights violations were acquitted or only charged with use of excessive force.

19. Non-governmental sources complained to the Working Group that detectives in the Anti-Terror Departments of the Ankara and Diyarbakir police frequently resorted to arbitrary detention and to torture and other forms of ill-treatment of suspects. It was said that, although article 181 of the Turkish Penal Code provides hard punishments for such offences, only a few disciplinary and judicial sanctions have been taken against police officers.

20. The authorities reported to the Working Group that they have issued several instructions and circulars addressed to law enforcement personnel. In addition, training programmes and human rights education strategies have been devised.

C. Courts for the security of the State

21. The organization, functions and jurisdictions of the courts, their functioning and trial procedures are regulated by law. According to article 143 of the Constitution, State security courts are established to deal with offences against the integrity of the State, with its territory and nation, the free democratic order, or against the Republic, as well as with offences directly involving the internal and external security of the State. The State security courts comprise a public prosecutor and a sufficient number of deputy public prosecutors, as well as a president, two regular and two substitute members. One regular and one substitute member and deputy public prosecutors are appointed from among military judges. The competent authority to examine appeals against the verdicts of the Courts for the Security of the State is the High Court of Appeals, through a department dealing exclusively with crimes against State security.

22. According to the information provided by the Prosecutor of the State Security Court of Istanbul, there are six courts for security of the State in that city, with jurisdiction over the Marmara Sea and its 11 provinces (with around 22 million inhabitants). Each court is composed of five members: a president, who is always a civilian, another civilian judge, a military judge and two prosecutors. Most of the offences tried are related to support for

terrorism, drug-trafficking and arms-trafficking and membership of illegal organizations. Only a few of those tried have been charged as directly or actively responsible for the commission of the crimes; most were only supporters or collaborators. The number of cases per year is estimated at 2,900. The six courts are served by 18 prosecutors; most of them living without enough protection and earning low salaries. At least five prosecutors and judges have been assassinated in the past three years. Given the geographical situation of Istanbul and its intense migratory movements, crimes related to drug and arms-trafficking are increasingly being considered by the State Security Court.

23. The prosecutor of the State Security Court of Diyarbakir informed the members of the Working Group that that court is served by 12 prosecutors. Each prosecutor examines some 1,000 cases a year. There are around 12,000 ongoing judicial cases; 29,000 cases have already been completed.

24. There are two State security courts in Ankara, each of them with 400 ongoing cases under examination.

D. Arrests and detention

25. The Working Group was informed by non-governmental sources that detainees are frequently not registered for several days after being taken into custody. However, government representatives stated that the police should immediately register all detentions with the Public Prosecutor or with a State security court prosecutor. Non-governmental sources stated that the reason for this, is to delay registration, sometimes by more than a week, until interrogation is over, thus facilitating the use of torture. They added that, if the detainee should die, the police could deny that the person was ever in custody.

26. It was reported that the best that family members could hope for from the police or gendarmerie station was a verbal confirmation of the detention, and that, in some cases of enforced disappearance, such confirmation was initially given but later denied. The most serious complaint was that relatives are often reluctant to check at the police station for fear of being themselves detained. In the absence of any official notification, a family is frequently only alerted to the fact that a relative has been detained when he or she fails to return home.

27. Non-governmental organizations also pointed out that police units, particularly the anti-terror branches, simply refuse to give information to relatives and lawyers. However, they admitted that the situation had improved during 1998. When the phenomenon of enforced disappearance started in Turkey, it was practically impossible for relatives to ask the police if a person had been detained, particularly in south-eastern Anatolia. That is no longer the case. Some problems continue with respect to members of the anti-terrorism detention units, who usually do not provide information, alleging that they do not have the authority to do so.

28. The Working Group was informed by government officials that a person who has been arrested has to be brought before a competent judge within a maximum

period of 24 hours. If the crime falls within the competence of the State security courts, this period is 48 hours. In cases of collective crimes, including crimes falling within the competence of the State security courts, the Public Prosecutor may, by a written order, prolong this period for up to four days, for reasons such as difficulty in gathering evidence or the large number of defendants. The period within which suspects must be brought before a judge may, at the request of the prosecutor and decision of the judge, be extended to seven days if the investigation is still not completed. For crimes falling within the competence of the State security courts that are committed in regions where a state of emergency is in force, the 7-day period may be extended to 10 days.

29. Detainees under the Anti-Terror Law have access to a lawyer after four days in detention. It was alleged that in some cases, police officers ignore the requirement to give such access to detainees. In practice, lawyers are authorized to see their client for a few minutes, in the presence of police officers.

E. Human rights defenders

30. The Working Group was informed that both the Human Rights Association of Turkey (Insan Haklari Dernegi) and the Human Rights Foundation (Insan Haklari Vakfi) had been under pressure and had suffered several acts of harassment by the authorities. Medical doctors working with the Human Rights Foundation had been prosecuted in Adana, Diyarbakir and Istanbul. In September 1996, a member of the Human Rights Foundation was charged by the Public Prosecutor of Istanbul with operating a treatment and rehabilitation centre without a licence. The charges were later dropped. Another member of the Foundation, Dr. Tufan Kőse, was found guilty of operating an unlicensed health centre and fined on 2 May 1997. The Human Rights Association had also suffered serious repression, including assassination by death-squads of its leaders in south-eastern Turkey, closure of its offices, charges against its members and confiscation of its publications. However, representatives of the Government stated that both human rights organizations were participating in sessions of the recently established High Council for Human Rights and that the information submitted by those organizations was being considered by the Special Bureau concerning Missing Persons of the General Directorate of Security.

31. The Working Group was informed that the Saturday Mothers, who hold a vigil for missing persons in the centre of Istanbul each Saturday morning, were suffering police harassment. Sometimes the police prohibit the mothers from reaching their meeting place. Some mothers and other demonstrators had been detained for short periods and had had their identity documents and passports confiscated. They complained to the delegation of the Working Group that some of them had been subjected to very intense pressure, including ill-treatment and detention for short periods, because their movement was embarrassing for the authorities. Government authorities stated that the movement had been infiltrated by members of illegal organizations and that their meeting place was an important commercial square in the Beyoglu district of Istanbul. Only 10 cases of enforced disappearance had been submitted by members of that movement to the Special Bureau of Missing Persons, which allegedly proved that they were more interested in a public outcry than in

serious investigation. It was also said by government sources that representatives of radical groups were now attending the vigils. The Saturday Mothers told the delegation that they were not going to abandon their protest until the fate and whereabouts of their relatives had been thoroughly investigated.

III. STEPS TAKEN BY THE GOVERNMENT TO IMPROVE THE HUMAN RIGHTS SITUATION

A. New measures

32. Government representatives advised the delegation that a High Council for Human Rights had been established in 1997 to start an advanced human rights reform process. The High Council was composed of the Under-Secretaries of the Foreign Affairs, Interior, Justice, Education and Health Ministries and representatives of the security forces. One of the elements of the human rights reform process was the invitation sent to the Working Group to visit the country. The Constitution of the Republic had been amended, as had article 8 of the Anti-Terror Law; the confines of freedom of expression had been enlarged; and the pre-trial detention period had been substantially reduced. On 14 August 1997, a law postponing the sentences of certain editors convicted for publishing articles involving incitement to terrorism had been enacted by the Parliament. Another law reforming the system of prisons and introducing new resources for prison administrations had been enacted on 6 August 1997. In January 1998, the Government had submitted to the Parliament a draft law amending the Turkish Penal Code, eliminating, inter alia, the death penalty, which had not been implemented since 1984, and enlarging the scope of freedom of expression.

33. Furthermore, in February 1998 the Government had submitted to the Parliament a draft law introducing substantial amendments to articles 17, 159 and 312 of the Penal Code and a draft law facilitating the prosecution of public officials. Lastly, on 3 December 1997, the Prime Minister issued a circular instructing the law enforcement agencies and officials to respect human rights strictly and the Turkish General Staff had issued a "Code of Conduct" regarding human rights practices for the Turkish Armed Forces.

34. The government representatives also announced the Government's intention to establish a human rights Ombudsman to carry out local administrative reform so as to strengthen local democracy; and to develop special incentives and employment-generating measures in the south-eastern provinces of the country.

35. Those initiatives had been designed by a Human Rights High Coordinating Committee at ministerial level which held weekly sessions and had the support of 240 associations from the civil society.

36. Representatives of the civil society observed that some of the proposed amendments to the juridical and legal framework were closely linked to the negotiations regarding the European Union and remained just words. They objected that no action had been taken against illegal organized gangs, which had murdered 109 persons in 1997. During the same year, 114 other people had been the victims of extrajudicial executions.

B. The Special Bureau to Investigate Allegations concerning Missing Persons

37. On 20 December 1997, the Government of Turkey informed the members of the Working Group that a Special Bureau to Investigate Allegations Concerning Missing Persons had been set up, and provided detailed information about the findings of this Bureau. The members of the Working Group expressed their interest in visiting the offices of the Special Bureau in Ankara. The visit took place on 22 September 1998.

38. The Special Bureau has been charged with the task of investigating the fate and whereabouts of missing persons. In order to facilitate investigations and receive applications the Bureau is open 24 hours a day and has established a mobile centre, in a bus, specifically for the speedy processing of applications. In addition, an intensive public information campaign has been carried out in order to make the Bureau widely known.

39. The delegation gave the Deputy Director of the Bureau a list of the 87 cases then outstanding and asked if the Bureau could obtain any relevant information concerning the fate or whereabouts of any of the missing persons whose names were contained in that list. The Bureau's representative replied that, regrettably, the list had been sent to the Bureau by the Ministry for Foreign Affairs only 48 hours before the delegation's visit, and the Bureau was, therefore, unable to provide any concrete response. However, he stated that the information contained in the Working Group's list was not enough to conduct an effective investigation or even, in some cases, to identify the missing persons. Information such as the name of the victim's father, his or her last address in Turkey, the place and date of birth, the identity card number, etc., was indispensable in order to conduct a proper investigation. The delegation replied that each case included in the list contained all the elements required by the Working Group's methods of work before its submission to the Government of Turkey and was therefore admissible.

40. The Deputy Director of the Special Bureau showed the delegation a list of its conclusions on some cases of disappearance. In most of the cases the conclusion was that the missing person had never been detained. In other cases, the disappearance had been denounced by the relatives to hide the fact that the individual had joined a terrorist or subversive organization. In other cases, the missing person was abroad. He also explained that the Special Bureau, in its daily work, made a distinction between cases of enforced or involuntary disappearance and cases of voluntary or not politically motivated disappearance.

C. New detention procedures

41. The members of the Working Group were informed that the High Council for Human Rights, chaired by the Minister of State Responsible for Human Rights, had taken several initiatives to improve detention registration and notification procedures. On 21 August 1998, the Government had approved the new Regulation on Apprehension, Police Custody and Interrogation, aimed at introducing uniformity and standardization in this field, clarifying the

responsibilities and obligations of the security forces under the law, bringing about a system of registration of detention and entitling State prosecutors to carry out effective control of the security forces.

42. In accordance with article 9 of the new regulation, an apprehended person shall be given the opportunity to inform his or her relatives even for crimes falling under the jurisdiction of the State security courts, if there is no harm to the outcome of the investigation. Article 10 establishes that if the apprehended person is to be taken under custody or if he has been apprehended by use of force, his health at the time of the apprehension shall be determined by a medical examination. His State of health will also be determined by medical authorities in cases of change of location or liberation of the person.

43. Article 11 of the Regulation provides for admission registers to be kept for detention centres; they should include information on the identity of the detained person, reports concerning the detention, the admission procedures, the names of the relatives informed and, if applicable, of the lawyer and of the interpreter requested, and the exit procedure.

44. Non-governmental organizations complained that there had been no significant positive developments after the entry into force of the new regulation. It was alleged that procedures laid down for the prompt and proper registration of detainees and for notification of their relatives were frequently ignored. Some detentions were not registered and some were registered long after the arrest. That situation continued to facilitate the practice of enforced disappearance.

D. New cases reported

45. During their visit to the country, the members of the Working Group received detailed information on 25 alleged cases of enforced disappearance that reportedly occurred between 1995 and 1998. Some of them were not really cases of enforced disappearance, but of extrajudicial or summary execution. The corpses of the victims had been found, sometimes buried in common graves, several weeks after their disappearance. That applied in the cases of Messrs. Hasan Ocak, Baki Isik, Hamza Haran, Ahmet Urun and Teyfik Kusun. Most of the cases had already been communicated to the Working Group in previous years and appeared in the Group's lists and files. Only in five cases was new information received by the Working Group.

46. The Working Group was informed that Messrs. Halil Birlik and Mehmet Bilgic had been detained on 7 November 1996 at Habur, on the border with Iraq, while they were trying to cross the border legally in a taxi, and had later been taken to the Security Unit. The taxi driver, who witnessed the detention, was asked to leave. Since then the whereabouts of those two persons were unknown. The source reported having applied to the Office of the Public Prosecutor in Silopi and to the Ministry of Interior, without result.

47. It was reported that Mr. Hidir Ozturk disappeared in October 1996 while in detention in E-Type Prison in Diyarbakir. His mother was told on 31 October 1998 by prison guards that Mr. Ozturk had run away as he was

being taken to the hospital for a medical operation. Since then, his whereabouts are unknown. His mother applied to the Prosecutor of the State Security Court of Diyarbakir, without result.

48. The forced disappearance of Mr. Mehmet Ozdemir was also reported. He was allegedly detained on 26 December 1997 near the vegetable market in Diyarbakir. Three days later, his wife was told that he was being held in police custody at the Security Department. However, after this date she was told that Mr. Ozdemir had not been detained.

49. The members of the Working Group were also informed that Mr. Hadi Oguz had been arrested on 23 February 1998 by police officers after leaving his home in the Gungoren district of Istanbul. Since then his whereabouts are unknown.

50. The Human Rights Association (Insan Haklari Dernegi) advised the members of the Working Group that it believed that 90 per cent of enforced or involuntary disappearances in Turkey were connected with the Kurdish question. The remaining 10 per cent of victims were thought to be members of left-wing extremist groups. During the period 1991-1994 most enforced disappearances had occurred after formal arrests carried out by members of the Gendarmerie, the police or members of those forces acting together to guard villages. Since 1995 it appeared that a new clandestine unit known as JITEM, formed by members of the Intelligence Unit of the Gendarmerie, the Struggle Against Terror Unit and civilian members of the mafia, was carrying out abductions. It was said that the gun attack against Mr. Akin Birdal, President of the Human Rights Association; the arrest in France of an alleged mafia leader with a diplomatic passport, Mr. Alaaddin Cakici, and the so-called Susurluk incident, in which a mafia leader, a senior security officer and a member of Parliament were found together in a car that was involved in an accident, revealed the relations between members of national intelligence units, security bodies, the military, politicians and members of the mafia. These people were thought to be responsible for enforced disappearances and extrajudicial executions in south-eastern Anatolia and to be acting as a "parallel State within the State".

51. Governmental authorities and particularly the Chief of Staff of the Gendarmerie strongly denied the existence of JITEM and the participation of members of the security forces in clandestine units or death squads.

52. The Human Rights Association stated that during the period 1995-1997 271 cases of enforced or involuntary disappearance had been reported to it. According to the General Directorate of Public Security, 125 persons concerned had not been arrested or detained at all; 72 people were in prison; 48 persons were living at liberty with their families; 16 people were operating in various terrorist organizations; 7 persons had been released and 3 persons had been killed in armed clashes. The Human Rights Association considered that the government responses to its complaints were aimed at protecting the State Security agents and members of the Gendarmerie and the police, rather than establishing the truth. Government officials considered that those reports were usually false or inaccurate and intended to create a bad image of the

security forces and to try to divide the people. For the Human Rights Association, its sole and explicit aim was to work for human rights and freedoms.

IV. CONCLUDING OBSERVATIONS

53. The Working Group expresses its appreciation to the Government of Turkey for the invitation to visit the country. The visit was well organized and the two members of the Working Group were provided with the opportunity to meet many government officials, representatives of non-governmental organizations and relatives of allegedly missing persons. The Working Group also wishes to express its appreciation for the continuous cooperation of the Government of Turkey since the establishment of its mandate. As a rule, the Government has promptly responded to the allegations submitted to it and provided the Working Group with relevant information concerning the reported cases. As a result of this cooperative approach, almost half of the cases of disappearance transmitted by the Working Group have been clarified, most of them by the Government. The Working Group is convinced, especially after its recent mission, that this productive cooperation will continue in the future.

54. In its previous annual reports to the Commission on Human Rights, the Working Group has indicated that the main source of the continuing preoccupation of both the Government of Turkey and the international community over the situation of human rights in this country, has been the ongoing violent conflict between the Government and the PKK. Although the military and other activities of both sides have been concentrated in south-eastern Turkey, the ramifications of the conflict have affected the country as a whole.

55. It is the impression of the Working Group that without a solution to this chronic and persistent problem it is difficult to expect any comprehensive and lasting improvement in the human rights situation in Turkey. The deep-seated roots of that conflict and possible solutions are major issues that fall outside the scope of the present report. Nevertheless, other similar conflicts in other parts of the world suggest that when political solutions are envisaged and achieved, there is a greater possibility of achieving a stable peace.

56. Concerning the alleged practice of enforced or involuntary disappearance, the Working Group has already reported that most of the cases submitted to the Government concern persons of Kurdish ethnic origin. Although the total number of cases forwarded to the Government of Turkey is relatively low, they deserve particular attention with a view to improving the practices and behaviour of the security forces.

57. The Working Group is of the opinion that, again comparatively speaking and taking into account the number of outstanding cases of disappeared persons, as well as the decrease of allegations in the past few years, mainly since 1994, enforced disappearances in Turkey should not be evaluated as a massive or systematic practice of governmental agencies. Such an assessment does not exclude the existence of such a practice.

58. In the past two years the Government of Turkey has taken legal and administrative measures in order to comply with its international human rights obligations and to prevent or limit the possibilities of various kinds of violations of human rights occurring. They include a number of measures relevant to preventing the practice of disappearances, speedy clarification of allegations concerning disappearances, reducing the number of disappearances and eliminating impunity. The Working Group considers that the full implementation of all these measures will help the Government to fulfil its commitment pursuant to the Declaration, in particular paragraph 3 thereof.

59. The Working Group wishes to stress that the appropriate legislative, administrative and judicial measures to which paragraph 3 of the Declaration refers include steps to prevent the occurrence of enforced disappearances. In this context, the regulations concerning pre-trial and incommunicado detention in cases referred to the State security courts should be further amended to guarantee the right of all detainees to have prompt access to their families and lawyers.

60. The Working Group wishes to recall that it has stressed many times that impunity is one of the root causes of enforced disappearance and human rights violations. In that respect, the situation in Turkey is no exception: the Working Group has not received any information regarding the investigation of or the application of effective sanctions against perpetrators of enforced disappearance as is laid down in article 16 of the Declaration on the Protection of All Persons from Enforced Disappearance. In this context, the adoption of appropriate legislation to make all acts of enforced disappearance a crime under Turkish law is strongly recommended.

61. When in a situation of internal strife like the one affecting Turkey where there are many law enforcement agencies empowered to detain persons, the risk of abuse increases and there is every possibility of failure to control them. In accordance with article 12 of the Declaration, the Government of Turkey should establish rules and regulations about the conditions under which officials are authorized to detain persons. Strict supervisions and a clear chain of command must be guaranteed.

62. Non-governmental organizations and relatives of disappeared persons are the main source of information for the Working Group. Without their cooperation it would be impossible for it to fulfil its mandate. The Working Group expresses its concern regarding information received about action taken by the Government against certain non-governmental organizations and organizations of relatives. The Working Group requests the Government of Turkey to strengthen its cooperation with these organizations and to take appropriate measures to give sufficient guarantees to them for the performance of their activities.

Annex I

Official Programme

21 September 1998 (Ankara)

Meeting with Ambassador Metin Ornekol, General Director for Multilateral Political Affairs, Ministry of Foreign Affairs.

Meeting with Dr. Hikmet Sami Turk, Minister of State Responsible for Human Rights.

Meeting with Mr. Abdulkadir Acikgoz, Acting General Director of Prisons and Detention Houses.

22 September 1998 (Ankara)

Meeting with Dr. Hasan Denizkurdu, Minister of Justice.

Meeting with Mr. Yahya Gur, Under-Secretary, Ministry of Interior.

Meeting with Mr. Necati Bilican, Director-General of Security.

Visit to the Special Bureau of Missing Persons at the General Directorate of Security.

23 September 1998 (Ankara-Diyarbakir)

Meeting with Lieutenant-General Cetin Haspisiren, Chief of Staff of the Gendarmerie.

Meeting with the General Prosecutor of Ankara State Security Court.

Meeting with the Chief Public Prosecutor of Ankara.

24 September 1998 (Diyarbakir)

Meeting with the governor of the region in which the state of emergency applies.

Meeting with the General Prosecutor of Diyarbakir State Security Court.

Meeting with the Deputy Public Prosecutor of Diyarbakir.

25 September 1998 (Istanbul)

Meeting with the General Prosecutor of Istanbul State Security Court.

Meeting with the Chief Public Prosecutor of Istanbul.

Annex II

Extra-official programme

21 September 1998

Meeting with Mr. Paul van Hanswijck de Jonge, United Nations Development Programme Resident Representative and United Nations Resident Co-ordinator in Turkey.

Meeting with the Human Rights Association (Insan Haklari Dernegi) in Ankara (Messrs. Nazni Gür (Secretary-General), Selahattin Esmer and Zeri Irang).

22 September 1998

Meeting with the Human Rights Foundation of Turkey (Insan Haklari Vakfi) in Ankara.

23 September 1998

Meeting with the Human Rights Association (Insan Haklari Dernegi) section in Diyarbakir.

Meeting with the Human Rights Foundation (Insan Haklari Vakfi) section in Diyarbakir.

Meeting with relatives of missing persons.

24 September 1998

Meeting with relatives of missing persons and hearings with victims of human rights violations in Diyarbakir.

25 September 1998

Joint meeting with the Saturday Mothers and the Human Rights Association (Insan Haklari Dernegi) section in Istanbul.